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June 26, 2001

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Arizona Corporation Commission
Docket Control - Utilities Division
1200 West Washington Street
Phoenix, AZ 85007

Re: Docket No. T-00000A-00-0194

Dear Sir or Madam:

Enclosed are the original and ten copies of the Public Version of Michael Hydock's Rebuttal Testimony on behalf of AT&T Communications of the Mountain States, Inc., WorldCom, Inc., and XO Arizona, Inc. Proprietary Qwest information has been redacted from footnote 12 on page 7. The page containing the proprietary Qwest information and printed on pink paper is being filed under seal.

Yours truly,

Donald R. Finch

Donald R. Finch

Enclosures

Arizona Corporation Commission
DOCKETED
JUN 27 2001

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JAMES M. IRVIN
Commissioner
MARC SPITZER
Commissioner

IN THE MATTER OF	)	
INVESTIGATION INTO QWEST	)	
CORPORATION'S COMPLIANCE	)	
WITH CERTAIN WHOLESALE	)	DOCKET NO. T-00000A-00-0194
PRICING REQUIREMENTS FOR	)	
UNBUNDLED NETWORK ELEMENTS	)	
AND RESALE DISCOUNTS	)	

REBUTTAL TESTIMONY OF

MICHAEL HYDOCK

ON BEHALF OF THE JOINT CASE OF

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC.,

WORLDCOM, INC. AND

XO ARIZONA, INC.

[PUBLIC VERSION]

JUNE 27, 2001

I. BACKGROUND AND PURPOSE OF TESTIMONY

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Michael Hydock. My business address is 1875 Lawrence Street, Denver, Colorado 80202.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes. I filed direct testimony on behalf of AT&T Communications of the Mountain States, Inc., WorldCom, Inc. and XO Arizona, ("Joint Intervenors") on May 18, 2001.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to the testimony of Randy G. Farrar on behalf of Sprint Communications Company L.P. and the testimony of William Dunkel on behalf of the Staff of the Arizona Corporation Commission ("ACC") as it relates to line conditioning and bridge tap removal charges.

Q. WHAT IS SPRINT'S POSITION ON LINE CONDITIONING CHARGES?

A. Sprint's position is that load coils should be removed in bulk from all loops that are shorter than 18,000 feet in length, at a minimum of 25 pairs at a time and not removed on loops longer than 18,000 feet in length.[1] Additionally, Sprint recommends the rate for bridge tap removals be based on the type of work being done, the number of locations requiring conditioning, and the outside plant environment (aerial, buried or underground).[2]

[1] Direct testimony of Randy G. Farrar at 20.
[2] Direct testimony of Randy G. Farrar at 22.

Q. WHAT IS STAFF'S POSITION ON LINE CONDITIONING CHARGES?

A. Mr. Dunkel, on behalf of Staff, supports Sprint's position presented by Mr. Farrar and recommends a rate of $40.00 per loop to remove load coils or bridge taps for loops of 18,000 feet or less and assumes that the Company will be removing several bridge taps or load coils at the same time.[3] Mr. Dunkel also proposes a rate of $70 per location for aerial and buried loops greater than 18,000 feet, $400 per location for underground loops greater than 18,000 feet and $2.00 for each additional coil or tap removed at the same time, location and cable for loops greater than 18,000 feet.[4]

Q. WHAT IS THE MAIN CONCERN WITH BOTH SPRINT'S AND STAFF'S POSITION?

A. The most critical question is whether there should be a charge for line conditioning and bridge tap removal at all. Incumbent Local Exchange Carriers ("LECs"), such as Qwest, apparently rely on the FCC's statement in its Line Sharing Order "not prohibiting" incumbent LECs from recovering the cost of line conditioning from requesting carriers. This statement, however, does not either require or allow an incumbent LEC to charge exorbitant fees which clearly violate the FCC's Total Element Long Run Incremental Cost ("TELRIC") principles. The FCC has decided only that the incumbent LEC may recover its cost of line conditioning "where permitted" — presumably meaning that such costs may be recovered where permitted by state commission order.[5]

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[3] Direct testimony of William Dunkel at 52.
[4] Direct testimony of William Dunkel at 9 of WD-8.
[5] *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, et. al.*, CC Docket 98-147, et. al., Third Report and Order in CC Docket No. 98-147 Fourth Report and Order in CC Docket No. 96-98, (Rel. Dec. 9, 1999), at ¶ 148 ("*Line Sharing Order*").

State commissions like this one, therefore, are the decision makers about whether or not such charges are warranted in the first instance. This Commission should not approve such charges for all the reasons stated in my Direct Testimony. The extinction of xDSL competition is assured if incumbent local exchange carriers are allowed to continue to impose massive nonrecurring charges for line conditioning.

Additionally, allowing Qwest to charge for line conditioning raises the potential for double recovery. As addressed in my Direct Testimony, the Oregon Commission found Qwest to be double recovering the cost of line conditioning -- once in a nonrecurring charge ("NRC") and again in the recurring loop cost. The Commission should clarify that costs are recoverable *only* to the extent that they are not already accounted for in the incumbent's maintenance and common cost factors.

Critically, it appears that Qwest in this proceeding has used its *historical* accounting records to determine its *historical* expenditures for maintaining loops and other network equipment as well as *historical* common costs associated with that equipment in calculating its proposed recurring rate for the UNE loop. These historical accounting records typically include the costs that an incumbent LEC incurred to install, maintain, repair *and remove* load coils, bridge taps, repeaters and any other line disturbers. Thus, the maintenance and common cost factors used by incumbent LECs to set their existing UNE rates for the recovery of maintenance and common costs *already include* most, if not all, line conditioning costs. Incumbent LECs already remove load coils from their network as a matter of course, and presumably seek to recover this maintenance expense through their recurring UNE loop charges.

In the Oregon proceeding Qwest conceded, "the labor costs associated with unloading loops are currently included in the maintenance factor used to develop recurring costs."[6] As a result, the Oregon Commission disallowed Qwest's proposed NRC for loop conditioning, and in doing so, reduced it from $597.61 to $0.00.[7] In such circumstances, allowing incumbent LECs to recover line conditioning costs again through separate (nonrecurring or recurring) charges constitutes blatant double recovery. The Commission should, therefore, clarify that the burden of proof is on incumbents to show that their line conditioning costs are appropriate in a forward-looking TELRIC network and are *not* already recovered by their recurring maintenance and common cost factors. Furthermore, the Commission should clarify that whenever the costs of line conditioning are already recovered through maintenance and common cost factors, incumbents may *not* recover those costs again through separate charges of any kind.

Q. DO BASIC TELRIC PRINCIPLES ALLOW THE RECOVERY OF EXCESSIVE LINE CONDITIONING CHARGES?

A. Clearly, no. The FCC's TELRIC rules must be applied and those rules expressly prohibit the most egregious of the incumbent LECs' line conditioning practices. Proper application of the FCC's TELRIC pricing rules would reduce – or even eliminate – line conditioning charges and thereby remove a significant obstacle to the competitive provision of xDSL services. Under TELRIC, the relevant costs are those of a "reconstructed local network [that] will employ the most efficient technology."[8]

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[6] Oregon Public Utility Commission Order No. 98-444 in Docket Nos. UT-138 and UT-139, entered November 13, 1998. An electronic copy of this decision is available at http://www.puc.state.or.us/orders/1998ords/98-444.htm#_Toc435505293.

[7] *Id.*

[8] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, FCC 96-325 (Rel. Aug. 8, 1996), ¶ 685. ("*Local Competition Order*").

Therefore, an incumbent LEC may only recover from new entrants the line conditioning costs that it would incur if it had constructed its local network from the ground up using the most efficient design and technology. Such a network would not contain *any* line disturbers (*e.g.,* load coils, bridge taps, repeaters, etc.) for loops shorter than 18,000 feet, so that all such loops should be able to support xDSL-based advanced services. In other words, under TELRIC no separate charge is appropriate for conditioning loops shorter than 18,000 feet. Basic TELRIC principles require that line conditioning charges – to the extent they can be justified at all – must be assessed on a recurring basis at rates amortized over the life of the loop plant and across all loops, rather than as arbitrary line-specific fees that penalize the carriers to which the incumbent assigns unconditioned lines.

Q. IF LINE CONDITIONING CHARGES ARE FOUND TO BE APPROPRIATE, WHAT IS THE PROPER COST RECOVERY MECHANISM?

A. Under the FCC's TELRIC rules, any permissible line conditioning charges should be recovered in the form of recurring monthly charges, rather than the exorbitant nonrecurring fees that the FCC has found to be a barrier to entry. Basic TELRIC principles require that any legitimate and previously unrecovered line conditioning costs must be recovered through recurring charges that amortize those costs over the life of the loops. After a line is conditioned, it can forever be used by any carrier – both incumbents and competitors – to bring consumers the benefits of advanced services competition. Like other costs associated with the onset of local competition, all carriers should bear a portion of line conditioning costs. Moreover, these recurring charges should be spread over *all* loops in a particular serving area to ensure that these costs are recovered in a competitively neutral and nondiscriminatory fashion rather than arbitrarily depending upon where an incumbent LEC happens to assign unconditioned loops.[9] In this way, each carrier will be assessed charges in a nondiscriminatory fashion that appropriately reflect its relative use of the network.

Q. IS IT CLEAR HOW EACH OF THE PROPOSALS, QWEST'S, STAFF'S AND SPRINT'S, ARE APPLIED?

A. No. Qwest's testimony does not indicate whether its proposed rate of $649.98 applies on a per pair basis or per twenty-five pair binder group. Qwest's testimony states that "An additional nonrecurring charge may apply to loops when conditioning of those loops is requested by the CLEC. The nonrecurring charge of Conditioning (Cable Unloading/Bridge Tap Removal) would apply in this instance."[10] There is an incredible variance in Qwest's proposed rate depending on whether Qwest's rate proposal is per loop or per binder group. If it is assumed that the rate applies to the entire binder group of 25 pair, the per loop rate is $25.99. The question still remains is a new entrant required to pay Qwest $25.99 for the loop it is purchasing, or $649.98 for the entire binder group. A loop, once conditioned, may be used by any carrier (including the incumbent LEC) for an extended period of time, therefore, all carriers should "bear the same proportionate and reasonable" share of the costs of that line conditioning.[11] If the

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[9] Line-specific charges create numerous economic inefficiencies. For instance, to the extent that a particular customer is served by more than one line pair, line-specific charges create incentives for incumbents to make only unconditioned line pairs available to new entrants. Moreover, line-specific charges result in different charges for serving customers living in the *same neighborhood* and, to the extent that those charges are passed on to end-users, result in *different rates for end-users in the same neighborhood.*
[10] Direct Testimony of Robert F. Kennedy at 30.
[11] *Local Competition Order* at ¶ 755.

charge to a new entrant is $649.98, a new entrant is in essence subsidizing Qwest's provisioning of its own DSL services.

Sprint's position is that load coils should be removed in bulk from all loops that are shorter than 18,000 feet in length, at a minimum of 25 pairs at a time.

Staff's position for loops under 18,000 feet is based on a per loop charge, but for loops over 18,000 feet Staff's proposed rate is assessed per location.

Q. WHAT IS THE APPROPRIATE METHOD TO DETERMINE THE UNIT COST ASSOCIATED WITH LINE CONDITIONING?

A. Any legitimate costs of line conditioning must be computed using the most efficient methods and technology available for carrying out such line conditioning. Qwest's cost study assumes loops are unloaded one at a time, rather than for an entire binder group.[12] Thus, for a twenty-five pair binder group, incumbent LECs assume that a technician has to be dispatched 25 *separate times* to remove line disturbers from that *single* binder group. That assumption plainly violates TELRIC. The more efficient method of line conditioning would be to assume that the technician makes only one visit, in which he upgrades all line pairs in that binder group. Accordingly, the costs of line conditioning for a pair in a twenty-five pair binder should include only 1/25th of the cost of a technician's visit to upgrade an entire binder group.

[12] Qwest Cost Study – Nonrecurring Elements, Cable Unloading/Bridge Tap Removal. The cost study includes ***[Proprietary] [XXX]*** minutes of engineering time, and ***[Proprietary] [XXX]*** minutes of technician time which is based on an average of 3 splice locations visited.

Q. WHAT IS YOUR RECOMMENDATION FOR CABLE UNLOADING AND BRIDGE TAP REMOVAL?

A. There should be no charge for loop conditioning. There is no justification for this rate element or its rate in a forward-looking network. The only practical effect of such a charge, regardless of magnitude, is to inflict new entrants with upgrades to the incumbent LEC network. Moreover, if the charge has been "hidden" in the maintenance factor used to develop recurring loop costs, as appears to be the case, the rate proposed by Qwest in Arizona -- $649.98 -- constitutes blatant double recovery. If any cable unloading or bridge tap removal is found to be legitimate, basic TELRIC principles require that any legitimate and previously unrecovered line conditioning costs must be recovered through recurring charges that amortize those costs over the life of the loops.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

CERTIFICATE OF SERVICE

I certify that the original and 10 copies of the Public Version of Michael Hydock's Rebuttal Testimony on behalf of AT&T Communications of the Mountain States, Inc., WorldCom, Inc., and XO Arizona, Inc. in Docket No. T-00000A-00-0194 were sent by overnight delivery on June 26, 2001 to:

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